App. F. IX-4

1922.

File No. 135-22

Previous References

(Courts)

Serial Nos. 1—5

No 154-4(1-5)

Later References

No ~~135~~ 136-25-(1-9)

Rev 68-36-1-10

Preserve

General and Revenue Secretariat.

Serial Nos. Files

Part B for November 1927

SUBJECT

Revision of State Schedule I of the Mysore Small cause courts Regulation 1911.

Note no P 2807 & 26/28-11-27 to the Compiler

Notices as above

Manasamsamy Iyengar
7-12-27

G. R. S. 11] 1922-3 2877

GENERAL AND REVENUE SECRETARIAT.

(65)

NOTES.

File No. 135.22

FILE HEADING.

Revision of the schedule under the Small cause courts Regulation

---

From

The Regr. Chief courts

No. 654 Dated 1.12.22 Received 6-12-22

Diary No. 2877	Enclos. 1	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Requests that the accompanying schedule may be substituted for reasons given to the existing schedule in the Small cause Courts Regulation

---

NOTES AND ORDERS.

Subd. with a draft, for orders

(3) ~~[illegible]~~

9.12.22 [illegible] 14/12

2) The pecuniary limit of the jurisdiction is not proposed to be raised but it is considered desirable to extend the scope of the suits triable on the small cause side. The draft notification is for orders.

[illegible] 15/12

NOTES—First Sheet.

4272 2.1.23

Second Member

Gen Secy?

The opinion of Chief Judge and the Legal Adviser may be taken first.

[illegible] 1.20-12-22

G. R. S. III-2]

General and Revenue Secretariat.

File No. 135 of 1922-3

Serial No.

4) Let me see draft
Sec
13.1.23

5) Send with a draft
15/1/23

6) Approved
Sec
24.1.23

2 To the Registrar, Calcutta.
No. P. 6101 dt 26.1.23
Calls for the opinions of the Law Associations of the State in the matter

3 Letter no Ro.C 654/22-230 27.3.23 from the Superintendent forwarding the opinions of the 2 Bar Associations together with the opinion of the Govt Pleader-cum-Government in the matter as called for in R.(2).7)
Send for orders. Please put up a copy of the Small Cause Court
Registrar.
Send copy of the J.C. Regn Contract
6/4/23.

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

File No. 135 of 1922-3

Serial No.	
	4) Let me see draft. Sec 13.1.23
	5) Send with draft. Sec 15/1/23
	6) Approved Sec 24.1.23
2	The Registrar, Calcutta. no. P. 6101 R 26.1.23 calls for the opinions of the Law Associations of the State in the matter
3	Letter no. Ro C 654/xx-230 27.3.23 from the Superintendent forwarding the opinions of the 2 Bar Associations together with that the opinion of the Govt Counsel in the matter as called for in R:(2). 7) Send for orders. Please put up a copy of the Small Cause Courts Regulation. Send copy of the J.C. Regn Section

Cases 3/4/23 4/4

Cases 6/4/23. 7/4

Cases 5/4

NOTE—Contn. sheet.

G. R. S. III-2.

General and Revenue Secretariat.

C5 File No. 135 of 1912

4824/P

72.6 P of 24

3

(3)

Serial No.

9) Please put up the file leading to the passing of the Regulation. Legal Association refers to it. There are certain points which the file may throw light upon.

Cag 9.5

C5 1075

(10) Sent with the Printed file Legis 9 of 1909-10

B/ 10/5/13 1075

11) The opinions of the various Local Associations in the Province together with the observations of the Judges of the Chief Court is submitted for perusal. While the Local Associations of Bangalore Mysore & Shimoga feel the necessity for enlarging the scope of the Small Cause Courts Regulation, that of Bangalore adopts the Chief Courts recommendation with some modification the Mysore Association would have a Regn prescribing the exclusions of the scope of Small Cause Courts ~~while~~ while the Shimoga Assn thinks the remedy suggested does not cure the evil and wants an Act on the British Indian model. The Chief Court Commissioners

General and Revenue Secretariat.

File No. 135 of 19 24

Serial No.	
	Rule may be necessary for the changes proposed and point out whether Govt. Order and Circular Schedule as the law provides to be known as the Regn enables.
	Ch Secy. 18/8
	1st Member 18/8
12	Inclined with powers with the power of the Secretary 18/8
13	Perhaps the Provincial S.C. courts Act. 4/9
14	Cited with acquiescence of Imperial Acts I & II Provincial Small Cause Courts Act vide page 289 (24) 11/9
15	The Ch Secy's remarks to see the Schedule in the proposed amendment is covered by the Provincial S.C. courts Act 24/9

NOTE—Contn. sheet.

726 5 (5)

General and Revenue Secretariat.

C5 File No. 135 of 19 21-3

Serial No.

16) The Schedule in the Provincial Small Cause Courts Act gives a list of ~~provides for~~ suits excepted from the cognisance of a court of small causes, whereas the proposed schedule gives a list of cases triable by a small cause court.

17) ~~Clause~~ the Provincial Small cause courts Act, Suits for the assessment, enhancement or apportionment of the rent of immoveable property are excluded from the ~~jurisdiction~~ of the small cause courts. (Vide item no 7). In the proposed schedule class III illustration provides for "Suit for enhancement in default of compliance with notice to quit."

18) Item no 10 – Suit to restrain waste etc item no 11 suit for the determination or enforcement of any other right to or interest in immoveable property are ~~excluded~~ from the jurisdiction of the Small cause courts in British India.

19) Class VI in the proposed schedule seems to include suit to restrain waste which has been excluded in British India

20) Illustration to class III provides for suits for mesne profits in the proposed schedule which seems again excluded ~~for~~ in British India.

Subd Int
6/3/09 Mr.

Serial No

21) The question of enlarging the items in the Schedule to the Small Causes Courts Regn is one which may perhaps be considered by the Laws delegn Committee, as there is difference of opinion among the Bar Associations of Bangalore Kolar and Shimoga, as to the Regulation itself.

4/9

22) (A). may be done

133/5.9

23) ~~The Chief Court may be asked~~ As it is nearly 2½ years since the Chief Courts were received in the matter, it may be ascertained if the Chief Court have any modification to suggest in the proposals sent up from us or if they can recommend the proposals to the Govt as sent up from us.

We may also suggest the matter being referred to the Chief Court for the consideration of the Laws Delegn Committee if they see no objection to it

24) Draft 12/10 13/10.

25) Draft to issue

14/10

NOTE—Contn. Sheet

(7

726/25/7

General and Revenue Secretariat | No. File No. 135 | [App. F. III—2 of 1922.

Serial No 4

Home Regr Chief Court.
No P 1972 & 17-10-25

Enquiries whether the Chief Court have any modifications to suggest in the proposals or if they would recommend the proposals to be sent as they sent up and suggest that the proposals may, if the Chief Chief Court have no objection, be referred to the Hague Delegate for their consideration and recommendation

Sent 23/10/25

S.J.O

Serial No.

Ord

27 The Lawsi Delapi committee have approved of the suggestions made by the Chief Court for extending the schedule to the Small Cause Courts Regulation. In addition to the classes of cases recommended by the Chief Court the Committee recommend the inclusion of 2 classes of suits to the schedule viz Suits in ejectment and Foreign judgments.

28 In this connection kind reference is invited to paras 16 to 20 of the notes wherein the difference between the cases cognizable in British India under the Provincial Small Cause courts Act and the proposed schedule is pointed out.

29 The British civil justice committee have recommended the inclusion that the following classes of cases may be tried as Small Cause suits

(1) Suits for ejectment
(2) Suits on simple mortgages
(3) Suits for rent with certain limitations
(4) Suits relating to trusts
(5) claim cases
(6) Foreign judgments
(7) Refund of assets
(8) Mesne profits
(9) Damage by criminal act
(10) Maintenance

cf: Pages 98 to 102 of the report of the civil justice committee

30 It is thus seen that the civil justice committee of British India have recommended the inclusion of all the items practically suggested by the Govt,

NOTE—Contn. Sheet

Serial No.

in this letter except suits for ejectment and foreign judgments. The Lawes' Delays' Committee also recommend that these two classes of suits may be tried on the Small Cause Side.

2) The Chief Court may be consulted whether the Schedule as proposed by the Lawes' Delays' Committee may be approved and with changes.

26.1.27 3 Has the Lawyers' Conference (whose report is received) anything to be said about this? This is controversial point + the Chief Court have already said that they are in general agreement.

cag 25/1.

Noted

33 None of the Resolutions relate to the amending of the Schedule of the Small Cause Courts Regulation.

28.1.27 4 This is a Controversial subject & orders on it had been not been passed as the subject was to be considered by the Committee. The Committee now recommend the enlargement of the Schedule. Of course when the case is a small cause one, the trial judge need not be elaborate & with experienced Judges, the disposal occupies much

Serial No.

less time than that of original suits. In the generality of cases, however, the procedure adopted & benefits is practically the same as in original suits & this elaborate procedure does not give much scope for any speedier disposal. One strong objection is the loss of right of appeal to the parties & a revision or review does not generally assure the same attention on the part of the Judges as an appeal & it is often unsuccessful. The opinion of the Several Law Associations is on the file. As the Chief Courts have already replied that they are in general agreement with the recommendations of the Committee & as the original proposal emanated from them, this a point for consideration whether they may be consulted again. They may perhaps asked to state if the Schedule proposed would do or require any modification.

Lt & Secy

Govt (Cord)

Circ 3/2/1

I am working the recommendations of the Committee. This might be perhaps when that is ready

Dr 1-2-26

NOTE: Contn. Sheet

329/24 11

App. F. III—2]

General and Revenue Secretariat. | No. File No. 135 of 1927

Serial No.

86 Laid

The portions relating to the amendment of Small Cause Courts Regulation for including suits in ejectment based on specific leases of immovable property in which after notice to quit in the Schedule of cases triable by a small cause court have been separated.

37 Now that small cause courts have been established and the amendment of the Regulation may take some more time I suggest the other items recommended by the Law's Delays committee to be included in the schedule may perhaps be included and notification issued. Laid with a draft notification.

2/10/27 38 To include suits in ejectment, amendment of the S.C. courts Regn is necessary and a Bill must be introduced into the legislative Council. This will take some time

39 Meanwhile the other items of ~~the schedule~~ may be included in the Schedule by a notification under Section 4.

40 The chief court may be

3299 12 (W

App. F. III—2]

General and Revenue Secretariat. | File No. 135 of 1927

Serial No.

Consulted whether the 5 Rs items may be notified pending the amendment of the Regulation.

Regd. D)

42 41 Draft notification may be sent to Ch. Ct unofficially before issue. There is no need to await the passing of the amendment of the Regn. (this is in respect of appointment Sheristadar only.)

3604/5/11

5/11

43

Subd. Draft shelf may be sent if approved. to other Courts with reference to para 41

44

Forwarded unofficially with compliments to the Registrar Chief Court for favour of furnishing the opinion of the Chief Court.

By order,

Rangaraoulu

for Secy to Govt Law Dept

H.O. No. p 27 & 27 of 9 K. Nov. 1927.

CHIEF COURT 10 NOV. 1927 OF MYSORE.

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

260/2/27
P/27

13

App. F. III—2]

General and Revenue Secretariat.

No. File No. 135 of 1927

Serial No.

R.o.c. 1279/26-27 dt 24.11.1927.

45 File returned unofficially with compliments to Secy to Govt Law Dept.

46 The Judge considers the suggestion made, a good one & have no objection to it.

Sheernisadopuechari
Registrar. chief court of Mysore 24/11/27

1st Member.

24-11

47 Put up 26/11 Issue & recorded 28/28.11

48 Issued 26/11 Secy. 1-D

26/11

5 To

The Compiler Rules.

No. P 2807 dt 26/28/11/27

Directs that certain items shall be substituted for the existing items in Sch. I to the Mysore Small Cause Cts Regn. 1911.

To

The Regr. Civil Cts.

No. 2808 dt 26/28/11/27

Forwards a copy of the above.

4296/25/11

App. F. III—2]

General and Revenue Secretariat.	File No. 135 of 1922.23

Serial No.

Resubmitted with reference to para 48 above

29/4

Submitted for perusal

30/4

30/4

30/4

25/4

24017

C No 654/22-23.

2877 /1

CHIEF COURT OF MYSORE

Bangalore, dated 1st December '22

Cb 135-22-1

From

A. Sreenivasaragavachari, Esquire, B.A., B.L.,
Registrar of the Chief Court of Mysore,
B a n g a l o r e.

To

B. Venkoba Rao, Esquire, B.A.,
Secretary to the Government of Mysore,
General Department, B a n g a l o r e.

S i r,

I am directed to advert to the correspondence ending with your letter No. P.3444(1)/Cts., dated 27th October 1922, forwarding copy of a letter of the same date to the Secretary, Kolar Gold Fields Mining Board stating that Government see no urgent necessity to enhance the small cause jurisdiction of Munsiffs. The reasons for this conclusion have not been communicated to the Chief Court; but the fact that the pecuniary limit of the jurisdiction can only be enhanced by means of an amendment of the law may have been one of them. If so, the Judges wish to point out that an extension of the scope of suits triable on the small cause side, apart from an enhancement of the pecuniary limit, may be secured without resort to legislative action, and that such an extension is also otherwise very desirable in itself.

2. The Government are doubtless aware of the considerable amount of congestion of work that exists at present in most of the Munsiffs' and Subordinate Judges' Courts. That congestion can only be adequately relieved by the establishment of additional courts including possibly one or more special courts of small causes. This latter question is being separately examined by the Chief Court with a view to submit proposals to Government in connection with the Dewan's closing remarks of the 10th October 1922 at the Representative Assembly.

Meanwhile

Meanwhile, and apart altogether from the consideration of this wider question, it is felt that some not inappreciable measure of relief may be provided by enlarging the category of cases triable on the small cause side, thereby also tending to expedite the disposal of the simpler kinds of litigation coming before the civil courts.

3. Now, the scope of suits triable on the small cause side is very much more restricted in Mysore than it is in British India. Whereas the Provincial Small Cause Courts Act, IX of 1887, confers jurisdiction in all cases other than those specially excepted, the Mysore Small Cause Courts Regulation, VIII of 1911, limits it to thirteen classes of suits enumerated in Schedule I. This classification is found to be unsatisfactory in several respects. Thus suits for money lent or deposited are included, but not suits for money advanced for earnest money; suits for the price of goods sold are included, but not for the recovery of moveable property generally or its value; suits for rent or an express agreement to pay are included, but not suits for advanced rent or for mesne profits or for compensation for use and occupation of property; suits based on certain kinds of contracts are alone included, whereas there are other equally simple contracts which might well be included. And so on. The classification is also more or less loose defective and obscure, giving rise to difficulties in interpretation.

4. The experience of the past eleven years during which the Regulation has been in force shows that the list requires revision, and that in particular it may, with considerable advantage to the speedy disposal of litigation, be expanded so as to include other classes of cases more or less analogous to those already incorporated, and equally adapted for trial as small causes.

5. A fresh schedule has accordingly been prepared in which all suits considered suitable for being tried as small cause suits have been conveniently grouped under a few general heads for the sake of simplicity. It is scarcely necessary to add that the Regulation itself (vide section 4) excludes from the cognizance of small cause courts suits in which any relief is claimed in respect of immoveable property.

6. I am to request that if the proposed alteration commends itself to Government, a Notification may be published in the Official Gazette substituting the Schedule now submitted for the existing Schedule, in exercise of the powers conferred by Section 4 of the Small Cause Courts Regulation.

I have the honour to be,

Sir,

Your most obedient servant,

REGISTRAR.

N.G.

SCHEDULE I.

SUITS COGNIZABLE BY COURTS OF SMALL CAUSES (See Section 4)

Class I.

Suits for money payable or repayable or recoverable under an agreement, express or implied, to pay, contribute or reimburse.

ILLUSTRATIONS.

Suits for money lent, advanced or deposited, whether principal, interest or both; suits for earnest money; suits for money due by or against a surety; suits for money due on a contract of sale; suits for money entrusted to a person for a specific purpose but not so utilised; suits for money received by defendant for plaintiff's use; suits for money due as on a failure of consideration; suits for money paid by mistake or overpaid; - are suits falling under this class.

Class II.

Suits for specific moveables or their value.

ILLUSTRATIONS.

Suits for the price of goods sold; suits for the recovery of purchase money paid in respect of moveable property; suits for the value of goods delivered at defendant's request; -- are suits falling under this class.

Class III.

Suits for rent, produce or profits of immoveable property.

ILLUSTRATIONS.

Suits for enhanced rent in default of compliance with notice to quit; suits for damages for use and occupation of immoveable property; suits for mesne profits

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to 24.7.23.

General and Revenue Secretariat

( )

, the *191* .

Date of issue 26/1/23

Signed by M' Jag

Section C5

File No. 135-2'2

Serial No 2

No. C 6101

To

The Registrar Chief Court

Sir

With reference to your letter no C 6574 dt. 1.12.1922 suggesting the desirability of ~~extending the scope~~ enlarging the category of suits triable by the Small Cause side, apart from the enhancement of the pecuniary limit fixed in the Small Cause Courts Regulation and requesting sanction for the substitution of a fresh schedule in place of the existing ~~schedule~~ one, ~~extending~~ enumerating the over.

classes of cases that can be dealt
with on the small cause side I
am directed to request you to kindly
forward for the information of Govt
important
the opinions of the various Law associations
in the State. An early reply is
requested

Yours etc
for
24.1.23
Secretary to Govt
Judy

J/
15.1.23
MM (8)1

List of enclosures.

Copied by

Examined by

35059

4874 &

IMMEDIATE

CHIEF COURT OF MYSORE

Telegraphic Address. "JUSTICE"

Bangalore, dated 27th March 1923.

Roc No. 654

V5745-223

FROM

27 MAR 1923

A. SREENIVASARAGAVACHARI, ESQ., B.,A., B.L.,
Registrar, Chief Court of Mysore.

To

G. ARAVAMUDU IYENGAR, ESQ., B.A.,B.L.,
General Secretary to the Government
of His Highness the Maharaja of Mysore,
B a n g a l o r e.

SIR,

I am directed to acknowledge the receipt of your letter No.P.6101/Cts. 135-22-2 dated 26th January 1923 requesting to be furnished with the opinions of the important Law Associations in the State on the subject of enlarging the category of suits triable on the small cause side and the substitution of a fresh --- schedule in place of the existing one in the Small Cause Courts Regulation.

2. In reply I am to forward herewith copies of the opinions furnished by the three Law Associations in the State together with a copy of the Memorandum sent to each of those Associations containing a full statement of the reasons for the proposed measure.

The Bangalore Law Association considers that classes I and II of the proposed Schedule may be adopted in full, but that --- class III should include only suits for rent or produce where there is an agreement to pay expressed or implied. It would substitute clause 11 of the existing schedule for class IV, restric the scope of class V to the illustrations, and omit class VI altogether.

eleven years points strongly to the desirability of enlarging the list of suits triable as Small Causes, by the inclusion of more or less analagous classes of suits, on the lines now proposed for the approval of Government.

I have the honor to be,

S i r,

Your most obedient servant,

Ahreenivasa Rogavachari

27/3/23

R E G I S T R A R.

TMN/

M E M O R A N D U M.

SUBJECT :--

Substituting a fresh Schedule in place of the present Schedule to the Small Cause Courts' Regulation, VIII of 1911.

****

The existing schedule to the Mysore Small Cause Courts' Regulation VIII of 1911 contains thirteen classes of suits. This classification is found to be unsatisfactory in several respects. Thus suits for money lent or deposited are included, but not suits for money advanced or for earnest money; suits for the price of goods sold are included, but not for the recovery of moveable property generally or its value; suits for rent on an express agreement to pay are included, but not suits for enhanced rent or for mesne profits or compensation for use and occupation of property; suits based on certain kinds of contracts are alone included, whereas there are other equally simple contracts which might well be included. And so on. The classification is also more or less defective and obscure, giving rise to difficulties in interpretation.

2. The experience of the past eleven years during which the Regulation has been in force shows that the list requires revision, and that in particular it may, with considerable advantage to the speedy disposal of litigation, be expanded so as to include other classes of cases more or less analagous to those already incorporated and equally adapted for trial as small causes. It may be observed here that the Mysore Regulation is very much restricted in scope as compared with the Provincial Small Cause Courts Act, under which all cases other than those specially excepted as "triable on the small cause side".

3. A fresh schedule to the Regulation (to be substituted

substituted for the existing one by a Notification under Section 4) has accordingly been prepared in which all suits considered suitable for being tried as small cause suits have been conveniently grouped under a few general heads for the sake of simplicity. It is scarcely necessary to add that the Regulation itself (Vide Section 4) excludes from the cognizance of small cause courts suits in which any relief is claimed in respect of immoveable property. The proposed schedule is annexed herewith.

Sd/ A. Sreenivasaraghavachari,
31st January 1923 R e g i s t r a r.

Letter No.158 dated 23rd March 1923 from the Secretary, Law Association, Bangalore, to the Registrar, Chief Court of Mysore, Bangalore.

With reference to your office No.654/1922-23 requiring to be furnished the opinion of the Law Association, Bangalore, in the matter of the amendment of the Schedule to the Mysore Small Cause Courts Regulations, I beg to state that the matter wasconsidered by the Association at a General Meeting convened for the purpose, and that the Association was of opinion that the following amendments may be made :--

Class I in the proposed schedule may be adopted in full.

Class II may be adopted in full.

Ø In place of class III the following may be substituted :-- "Suits for rent or produce where there is an agreement to pay express or implied"

As the proposed class IV is very wide, the old clause 11 of the previous Schedule may be substituted for Class IV.

As the proposed class V is very wide, the said class may be confined to the particular illustrations given in the proposed schedule.

Class VI of the proposed schedule may be omitted.

****

Report of the Sub Committee of the Bar Association, Mysore, re :- the Memorandum proposed in substitution of a fresh schedule to (Small Cause) Regulation VIII of 1911.

1. While enacting the existing small cause regulation, the (positive) schedule containing 13 kinds of suits was appended as a decided improvement on the "negative" schedule of the British Indian enactment containing 44 clauses specifying the suits excluded from the jurisdiction of the courts of small causes. The legislature of Mysore considered the anamoly of the 44 negative clauses and made a careful note of the valuable observations of Justice Mr. A. Ramachandra Aiyar in his memoranda of 1890-1893 and decided that "the sphere of suits to be excluded from the cognizance of small cause courts should be enlarged" - rather than that the sphere of suits other than small causes should be curtailed. The Hon'ble Chief Court also considered that the classification proposed in the Draft Regulation was "at once simple and clear". No change was made in adopting the schedule from the draft into the regulation except the omission of a few superfluous words under the 12th head.

2. As observed in the statement of objects and reasons when the above regulation was enacted, "as a matter of fact several of the suits cognizable by such courts under the British Indian Act are as difficult as some of those which have been excluded". The object kept in view was that Small

Small cause jurisdiction should not be allowed to encroach upon other civil jurisdiction, the fundamental principle being "to restrict the jurisdiction of small cause courts to petty suits not involving difficult or intricate questions of law or fact". Complications of law and fact cannot become simple by reason of the lapse of a decade and cannot be made simple by a simple resort to the summary procedure of small cause trials and disposals. The Law of Contracts remaining the same, suits on contracts which were considered to be complicated by the best authorities, and hence not admitted to the class of small cause suits, also remain the same to-day and no special reason exists for a special treatment to be accorded to them now. The same remarks applies to suits under torts and other branches of law.

3. It is not contended that the 13 kinds of suits given in the schedule to the regulation have a strictly scientific basis and bearing, and it may be said that in this schedule suits based upon certain kinds of contracts are included while there are other equally simple suits on contracts which might well have been included therein. But as already seen the object or purpose was not to include by to exclude as far as possible and as many cases as possible from the jurisdiction of small cause courts. Considered also from a pecuniary point of view - from the point of view of a country which is poor and where almost all causes are small, any further widening of the sphere of small cause jurisdiction would be, it is submitted, inexpedient and unwelcome to suitors in particular and to the public at large.

Though there is no strictly scientific principle on which the schedule was constructed yet it is easy to see that a simple practical principle underlies the inclusion and exclusion referred to above as shown below :--

(a) Suits for money lent are obviously suits based on simple money bonds, pronotes, chits, hand-loans, etc. - transactions which do not generally involve any difficult questions of law or fact.

(b) Suits for price of goods sold comprise simple mercantile transactions or certain transactions of every day life, whereas suits for the recovery of moveable property or their value may include the entire range of transactions concerning moveable property, the only check on this inexhaustible variety being the pecuniary limit of Rs.500/- which in the generality of suits in this country marks the highest limit of monetary dealings.

(c) Suits for rent are not, (unlike the British Indian enactment) restricted to cases of house-rent. Yet, while a large variety of simple suits are brought under this head, complicated suits of the kind are carefully removed by the healthy check placed thereon, viz., the existence of express agreement with regard to them. Any the slightest alteration under this head will upset the range by opening a wide door to the admission of an indefinite variety of suits governed by different branches of law.

4. The present schedule no doubt requires revision, not so as to admit more kinds of complicated cases but only to limit the scope of small cause jurisdiction as not to encroach upon the sphere of other civil jurisdiction. It may be gathered from the Reports on the Administration of civil Justice prior to the passing of the regulation that most of the suits filed on the small cause side were for money lent, for goods sold, for wages or rent. But now we have reached a stage at which the country feels that it is not prepared to go beyond this limit. Even as things stand at present the people feel the inconvenience of Administration of Justice on he Small cause side. But for the ripe experience, shrewdness and indefati-

gable labour of some of the Judges administering justice on the small cause side the inconvenience would have been still greater. Under the recent raising of the small cause jurisdiction up to Rs.300/- the litigant public have been deprived of a regular trial of some of their causes and of the rights and remedies in appeals that they had till about two years ago.

5. Judicial Department was at once protective and productive. The loss of the right of appeal is in a sense loss of protection, the curtailment of the rights of a citizen and it necessarily involves loss, to the State, of the institution fee in appealable cases.

There has been on the one hand undue strain and over work, to the detriment of the regular work, on courts invested with higher small cause powers and on the other hand a corresponding depletion of work in the courts of the Munsiffs.

No doubt institution of suits in the courts of Munsiffs has increased nearly threefold and the work become unmanageable by the present number of Munsiffs. But the remedy for removing this congestion is not, it is submitted, by curtailing the rights of the litigant public, but by increasing the number of Munsiffs also three fold. The threefold increase in the institution of suits and appeals against them has also brought with it an increased revenue of three-fold and more.

6. The proposed change seems to mainly aim at reducing the files of the Munsiffs and of the appellate courts to the utmost minimum and if it be carried out the original and appeal files will considerably be depleted and there will be more and more congestion of work in Small cause courts of higher jurisdiction, and it may be, we humbly beg to state, with less and

and less chances of substantial justice and as a sequel the revisional work of the Chief Court will increase in no small degree. The Hon'ble the Chief Court have been given vast discretion to remove congestion of work in the subordinate courts, and we humbly submit that this healthy end may not be attempted to be attained by anything like the contemplated measure which is calculated at once to curtail not only the rights and remedies of the subjects of the State, but also the judicial revenu of the State, and the deep sense of spontaneous faith in the judicial administration of the country.

Sd/ C. Narasimhayya.

Mysore, Sd/ Not legible.

1st March 1923 Sd/ M. A. Doreswamy Iyengar.

****

Letter dated 22nd February 1923 from the Secretary, The Law Association, Shimoga, to the Registrar of the Chief Court of Mysore, Bangalore.

In reply to your No.654/22-23 dated 31-1-1923 calling for the opinion of the Law Asspciation on the proposal to amend the schedule to the small cause regulation VIII of 1911, I beg to state the following as the opinion of the Association :--

The Mysore Regulation was intended to more appropriatel define suits of a small cause nature unlike the British Indian Act (Act IX of 1887), where only suits other than small causes are defined. Questions regarding the nature of suits do arise under both the enactments and have given trouble to the litigants and the courts as well. These chances of doubt or difficulty can be minimised only if the classes of suits to be styled small causes are defined more satisfactorily

The Association feels that the proposed amendment is not likely to secure that end. Class I of suits for money, for example, under an agreement is definite enough and can be styled small cause suits. Class II is indefinite in its scope, suits for moveables based on one's right of succession of survivorship or otherwise than by agreement wi be styled as small causes which it is not intended to do. Class III makes it much wider. We may include herein even suits for mesne profits claimed on plaintiff's right to the possession of the property. Suits for rents may be classed as suits on contract of lease. But suits for produce or mesne profits are not on any agreement to pay the same but based on right to property. So also suits for damages or compensation arising otherwise than under a breach of contract. And suits in class VI raise questions too intricate and delicate than can be dealt with in a small cause suit.

The Association are thus of the opinion that the proposed amendments do not meet the requirements of the case, but are calculated to augment the difficulties already arising unde the regulation and would therefore recommend no amendments or suggest reenactment on the lines of the British Indian Model.

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* C O P I E S *

R E G I S T R A R.

App.F.VI-G1.]

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SUBJECT

Diary No. of letter replied to

General and Revenue Secretariat

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, the 192

Date of issue 17.10.25.

Signed by M. Bag.

List of enclosures

Copied by

Examined by

Section A

File No. 135-22

Serial No. 4

No. 1972/Ch.

To

The Registrar, Chief Court

Sir,

With reference to the correspondence ending with your letter No.R.O.C. 654/22-23 dated the 27th March 1923, I am directed to enquire whether the Chief Court have any modifications to suggest in their proposals on the subject of enlarging the category of suits triable on the Small Cause side or i they would recommend the proposals to be sanctio -ed as sent up by them.

I am also to ~~request~~ Suggest that the proposals may, if the Chief Court have no objection, be referred to the Laws & Delays Committee for their consideration and recommendation.

I have etc

14/10/25

CWG 14/10 For L & L Secre

(x) Under Section 6 of Act XI of 1865, the suits cognisable in Courts of Small Causes were restricted to "claims for money due on bond, or other contract or for rent, or for personal property, or for damages when the debt, damage or demand did not exceed in amount or value the sum of Rs.500/-, whether on balance of account or otherwise". There was a good deal of litigation, and several conflicting decisions in determining whether a suit was or was not of a nature cognisable by a Court of Small Causes. By Act IX of 1887 the Legislature tried to avoid that difficulty by specifying in a Schedule the suits over which such courts had not jurisdiction.

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CHAPTER XIII.

SMALL CAUSE COURTS' REGULATION.

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152 The Provincial Small Cause Courts' Act (Act XI of 1865) was made applicable to Mysore by a Notification of the Government of India in the Foreign Department in 1880, and was in force in Mysore until its place was taken up by Regulation VIII of 1911. The Small Cause Courts' Regulation VIII of 1911, on the contrary, specified in the Schedule appended thereto the classes of suits cognizable by a Court of small causes.

154 Under Section 10A of the Mysore Civil Courts Regulation, the jurisdiction of a Court of small causes is regulated in accordance with the law relating to such courts for the time being in force in Mysore, and under Section 16, the Government have the power to invest a District Judge, Subordinate Judge or other officers specially selected with the jurisdiction of a court of small causes for the trial of suits cognizable by such courts up to any amount not exceeding Rs.500/- and any Munsiff with a like jurisdiction up to any amount not exceeding Rs.100/-. The object of introducing a small cause system of trial, in the words of the original Act of 1860, was to facilitate "the more easy recovery of small debts and demands", and suits triable by a

Small Cause Court are of a comparatively simple character, based mainly on questions of fact and not raising complicated questions necessitating elaborate enquiries as to fact or law or both. In such cases it is advantageous to have it finally decided in the trial court subject to the powers of revision by the Chief Court, instead of adopting the elaborate procedure in the trial of an original suit.

255 The experience of the working of the Small Cause Courts' Regulation in Mysore for the last fifteen years has shown that Schedule I may be advantageously expanded so as to include other classes of cases of a similar or equally simple nature for trial by Small Cause Courts, especially in view of the fact that one of our recommendations, as will be explained in a subsequent Chapter, is to introduce separate Small Cause Courts for the Cities of Bangalore and Mysore to deal exclusively with such suits.

256 In this connection, we wish to refer to a Memorandum on this subject forwarded by the Chief Court to Government in 1923, which is appended to this Chapter. We generally approve of the suggestions made by the Chief Court for extending Schedule I to the Small Cause Courts' Regulation so as to include certain other classes of cases. In addition to the cases covered by the Memorandum of the Chief Court,

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we consider that the following classes of suits may also with advantage be included for trial as small causes :--

SUITS IN EJECTMENT :-- The general principle is that a suit for possession of immoveable property is not triable by a Small Cause Court, the reason being that it is not desirable to try summarily suits involving complex questions relating to title or other allied matters. Suits in ejectment are, however, of a simple nature and are invariably based on oral or written leases. Such suits are tried at present as original suits, and much of avoidable delay can be saved if they are made triable by Courts of Small Causes. We recommend that suits in ejectment based on specific leases of immoveable property in writing brought after notice to quite may be made cognizable by a Court of Small Causes.

FOREIGN JUDGMENTS :-- Under Article 25 of the Provincial Small Cause Courts' Act, a suit upon a foreign judgment is excluded from the category of suits triable as small causes, and it is immaterial whether the foreign judgment was obtained in a suit for money or moveables. It may be observed that if a suit brought on the original cause of action is triable on the small cause side, there is no reason why the fact of a foreign judgment

intervening should be made a ground for ousting the jurisdiction of the Small Cause Court to try the same. We do not think that there can be any serious objection to suits based on foreign judgments obtained in small cause suits, being tried by the Mysore Courts on the small cause side, provided that such suits, if instituted on the original cause of action, would be triable on the small cause side according to the law in force in Mysore. We accordingly recommend the following addition to Schedule I of the Small Cause Regulation:-- "A suit upon a foreign judgment which, according to the law in force in Mysore, is in the nature of a small cause suit."

27 The Schedule which we propose to substitute for the present Schedule I to the Small Cause Courts Regulation, as based on our recommendations, will be as follows :--

AMENDED SCHEDULE.

(1) A suit for money lent.

(2) A suit for money by or against a surety.

(3) A suit for the price of goods sold.

(4) A suit for money on a contract for work and labour

(5) A suit for money on a contract of hiring and service.

Art. 7+8

(6) A suit for rent or for a share of produce when there is an express agreement to pay.

(7) A suit for payment for board or lodging.

(8) A suit for money received by defendant for plaintiff's use

(9) A suit for money paid to defendant by mistake or money overpaid.

(10) A suit for money paid or value of goods delivered at defendant's request.

(11) A suit for damages for breach of a contract of sale of goods.

(12) A suit for money deposited.

(13) A suit for recovery of specific moveable property pledged or deposited with the defendant, or its value.

(14) A suit for the recovery of purchase money or earnest paid in respect of moveable property where the sale has fallen through.

(15) A suit for the recovery of money entrusted to a person for a particular purpose but not so utilised.

(16) A suit for damages for use and occupation of immoveable property (incases where rent is not claimable as such).

(17) A suit for damages for loss of or injury to goods entrusted to defendants.

(18) A suit for reimbursement, restoration or compensation in cases falling under Sections 69 and 70 of the Contract Act, except as between members of a joint or undivided family or co-owners.

(19) A suit for contribution.

(20) Suits in ejectment based on specific lease of immoveable property in writing after notice to quit.

(21) A suit upon a foreign judgment where it has been obtained in respect of a suit which according to the law in force in Mysore is in the nature of a small cause suit.

Art. 35

(22) A suit for maintenance based on a contract in writing.

APPENDIX TO CHAPTER XIII.

* * *

Memorandum of the Chief Court dated the 31st January 1923.

SUBJECT :--

Substituting a fresh Schedule in place of the present Schedule to the Small Cause Courts' Regulation, VIII of 1911.

The existing Schedule to the Mysore Small Cause Courts' Regulation VIII of 1911 contains thirteen classes of suits. This classification is found to be unsatisfactory in several respects. Thus suits for money lent or deposited are included, but not suits for money advanced or for earnest money; suits for the price of goods sold are included but not for the recovery of moveable property generally or its value; suits for rent on an express agreement to pay are included, but not suits for enhanced rent or for mesne profits or compensation for use and occupation of property; suits based on certain kinds of contracts are alone included, whereas there are other equally simple contracts which might well be included. And so on. The classification is also more or less defective and obscure, giving rise to difficulties in interpretation.

2. The experience of the past eleven years during which the Regulation has been in force shows that the list requires revision, and that in particular it may, with considerable advantage to the speedy disposal of litigation, be expanded so as to include other classes of cases more or less analagous to those already incorporated, and equally adapted for trial as small causes. It may be observed here that the Mysore Regulation is very much restricted in scope as compared with the Provincial Small Cause Courts Act under which all cases other than those specially excepted are triable on the small cause side.

3. A fresh schedule to the Regulation (to be substituted for the existing one by a Notification under Section 4) has accordingly been prepared in which all suits considered suitable for being tried as small cause suits have been conveniently grouped under a few general heads for the sake of simplicity. It is scarcely necessary to add that the Regulation itself (Vide Section 4) excludes from the cognizance of small cause courts suits in which any relief is claimed in respect of immoveable property. The proposed Schedule is annexed herewith.

PROPOSED SCHEDULE I.

(Proposed by the Chief Court)

SUITS COGNIZABLE BY COURTS OF SMALL CAUSES

(See Section 4)

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CLASS I.

Suits for money payable or repayable or recoverable under an agreement, express or implied, to pay, contribute or reimburse

ILLUSTRATIONS.

Suits for money lent, advanced or deposited, whether principal, interest or both; suits for earnest money; suits for money due by or against a surety; suits for money due on a contract of sale; suits for money entrusted to a person for a specific purpose but not so utilised; suits for money received by defendant for plaintiff's use; suits for money due as on a failure of consideration; suits for money paid by mistake or over paid; are suits falling under this class.

CLASS II.

Suits for specific moveables or their value

ILLUSTRATIONS.

Suits for the price of goods sold; suits for the recovery of purchase money paid in respect of moveable property; suits for the value of goods delivered at defendant's request; are suits falling under this class.

CLASS III.

Suits for rent, produce or profits of immoveable property.

ILLUSTRATIONS.

Suits for enhanced rent in default of compliance with notice to quit; suits for damages for use and occupation of immoveable property; suits for mesne profits; suits for produce from a tenant holding over; are suits falling under this class.

CLASS IV

Suits for damages for breach of contract, other than contracts relating to the transfer of immoveable property.

CLASS V

Suits for other payments due under contracts not relating to the transfer of immoveable property.

ILLUSTRATIONS.

Suits for payment for board and lodging; suits for money on a contract for work and labour; suits for money on a contract of hiring and service; are suits falling under this class.

CLASS VI.

Suits for damages or for compensation otherwise than under breach of contract.

ILLUSTRATIONS

Suits for damages for wrongful loss, injury or mischief to property or produce or things attached to property, are suits falling under this class.

9 Copies 30

Notification.

No. 2807
Cs 135-22-5

9 26/28/11/27

In exercise of the powers conferred by the Proviso to section 4 of the the Mysore Small Cause Courts Regulation, 1911, the Govt. of H.H. the Maharaja are pleased to direct that the following items shall be substituted for the existing items in Sch.I of the said Regulation viz.,

(1) A suit for money lent.

(2) A suit for money by or against a surety

(3) A suit for the price of goods sold.

(4) A suit for money on a contract for work and labour.

(5) A suit for money on a contract of hirin and service.

(6) A suit for rent or for a share of produce when there is an express agreement to pay.

(7) A suit for payment for board or lodging

(8) A suit for money received by defendant for plaintiff's use.

(9) A suit for money paid to defendant by mistake or money overpaid.

(10) A suit for money paid or value of goods delivered at defendants request.

(11) A suit for damages for breach of a contract of sale of goods.

(12) A suit for money deposited.

(13) A suit for recovery of specific movable property pledged or deposited with the defendant or its value.

(14) A suit for the recovery of purchase money or earnest paid in respect of movable property where the sale has fallen through.

(15) A suit for the recovery of money entrusted to a person for a particular purpose but not so utilised.

(16) A suit for damages for use and occupation of immovable property (in cases where rent is not claimable as such).

(17) A suit for damages for loss of or injury to goods entrusted to defendant

(18) A suit for reimbursement, restoration or compensation in cases falling under Sections 69 and 70 of the Contract Act, except as between members of a joint or undivided family or co-owners.

(19) A suit for contribution.

(20) A suit upon a foreign judgment where it has been obtained in respect of a suit which according to the law in force in Mysore is in the nature of a Small Cause Suit.

(21) A suit for maintenance based on a contract in writing.

By order,

9/11

Secy.to Govt. Law Dept.,

The Compiler,M.G. for publication and to request that 350 spare copies may be supplied to this office.

Copy to Registrar,Chief Court.

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General and Revenue Secretariat.	File No.	of 192
Serial No.		

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LAW SECRETARIAT.

No. P. 2807—*Cts.* 135-22-5, *dated* 26—28*th November* 1927.

In exercise of the powers conferred by the Proviso to Section IV of the Mysore Small Cause Courts Regulation, 1911, the Government of His Highness the Maharaja are pleased to direct that the following items shall be substituted for the existing items in Schedule 1 to the said Regulation, *viz.*:—

(1) A suit for money lent.
(2) A suit for money by or against a surety.
(3) A suit for the price of goods sold.
(4) A suit for money on a contract for work and labour.
(5) A suit for money on a contract of hiring and service.
(6) A suit for rent or for a share of produce when there is an express agreement to pay.
(7) A suit for payment for board or lodging.
(8) A suit for money received by defendant for plaintiff's use.
(9) A suit for money paid to defendant by mistake or money overpaid.
(10) A suit for money paid or value of goods delivered at defendant's request.
(11) A suit for damages for breach of a contract of sale of goods.
(12) A suit for money deposited.
(13) A suit for recovery of specific movable property pledged or deposited with the defendant or its value.
(14) A suit for the recovery of purchase money or earnest paid in respect of movable property where the sale has fallen through.
(15) A suit for the recovery of money entrusted to a person for a particular purpose but not so utilised.
(16) A suit for damages for use and occupation of immovable property (in cases where rent is not claimable as such).
(17) A suit for damages for loss of or injury to goods entrusted to defendants.
(18) A suit for reimbursement, restoration or compensation in cases falling under Sections 69 and 70 of the Contract Act, except as between members of a Joint or undivided family or co-owners.
(19) A suit for contribution.
(20) A suit upon a foreign judgment where it has been obtained in respect of a suit which according to the law in force in Mysore is in the nature of a Small Cause Suit.
(21) A suit for maintenance based on a contract in writing.

By Order,

B. NAGAPPA,

Secretary to Government,
Law Department.

NOTE—Co

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